



Rules and Ancillary Document Review Checklist
(This form must be filled out electronically.)

All responses should be in **bold** format.

Document Reviewed (include title): **WAC 458-20-132**
 Automobile dealers/demonstrator and executive
 vehicles

Date last adopted: **March 20, 1992**

Reviewer: **JoAnne Gordon**

Date review completed: **September 11, 2000**

Is this document being reviewed at this time because of a taxpayer or business association request? (If "YES", provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request). **YES** ☐ **NO** ☒

Type an "x" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Explain the goal(s) and purpose(s) of the document:

WAC 458-20-132 accounts for the unique practices of the retail automobile dealer's industry and reflects administrative notice of the customs of this trade. The tax reporting formulas explained in this rule represent a compromise of use tax liabilities and offsetting deductions. It recognizes that demonstrators and vehicles used by executives or persons associated with a dealer are actually used for limited periods of time without significantly affecting their marketability or retail selling value, and that such used vehicles have a high trade-in value when returned to inventory for sale.

2. Need:

YES	NO	
X		Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)
	X	Is the document obsolete to a degree that the information it provides is of so little value that the document warrants repeal or revision?
	X	Have the laws changed so that the document should be revised or repealed? (If the response is "yes" that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)
X		Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of



	Washington), or safety of Washington's citizens? (If the response is "no", the recommendation must be to repeal the document.)
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Please explain.

3. Related ancillary documents, court decisions, BTA decisions, and WTDs: Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an ancillary document. Excise Tax Advisories (ETAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered ancillary documents.

(a)

YES	NO	
	X	Are there any ancillary documents that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any ancillary documents that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that provide information that should be incorporated into this rule?
X		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
		Should this ancillary document be incorporated into a rule?
		Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that affects the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?

If the answer is "yes" to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

The application of WAC 458-20-132 is limited to automobile dealers. However, the Department's published determination, Det. No. 90-305, 10 WTD 107 provides that motorcycle dealers do not owe use tax on the value of models which are used for display and test drives in the same manner as those used by automobile dealers. An article appearing in the July/September 1990 issue of *Tax Topics* discusses this determination.



While there is no compelling reason to revise this rule at this time, the Department should consider incorporating the determination in a future rule revision.

**4. Clarity and Effectiveness:**

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
X		Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities, help ensure that the tax law and/or exemptions are consistently applied?)
	X	Do changes in industry practices warrant repealing or revising this document?
	X	Do any administrative changes within the Department warrant repealing or revising this document?

Please explain.

5. Intent and Statutory Authority:

YES	NO	
X		Does the Department have sufficient authority to adopt this document? (Cite the statutory authority in the explanation below.)
X		Is the document consistent with the legislative intent of the statutes that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed to implement ?) If “no”, identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
	X	Is there a need to recommend legislative changes to the statutes being implemented by this document?

Please explain.

RCW 82.32.300, Department of revenue to administer, directs the Department to “make and publish rules and regulations” necessary for the enforcement of various chapters related to the reporting of use tax.

- 6. Coordination:** Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain.



7. Cost: When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer “yes” only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)

Please explain.

As an interpretive rule, WAC 458-20-132 does not impose administrative burdens that are not imposed by law.

8. Fairness: When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain.

9. LISTING OF DOCUMENTS REVIEWED: (Use “bullets” with any lists, and include documents discussed above. Citations to statutes, ancillary documents, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented: **To the extent the following apply to the use of demonstrator, executive, service department, and loaner vehicles by automobile dealers:**

RCW 82.12.020 – Use tax imposed

RCW 82.12.010 – Value of article used

Ancillary Documents (i.e., ETAs, PTBs, and ADs):

Audit Directive 8132.1 - Service Trucks Used By Car Dealers : Subject matter currently addressed in rule. Audit Directive was cancelled June 30, 2000.

Audit Directive 8132.2 - Use Tax on Loaned Vehicles: Subject matter currently addressed in rule. Audit Directive was cancelled June 30, 2000.



Excise Tax Bulletin 37.12.132 - Manufacturer's Demonstrator Cars and Use Tax Liability: Subject matter addressed in rule. ETB was cancelled February 28, 1992.

Excise Tax Bulletin 477.32.178 - Use Tax as Applied to Vehicle Used for Both Demonstration and Service Purposes: ETB is not consistent with rule as revised during 1992. ETB was cancelled February 28, 1992.

Court Decisions:

Board of Tax Appeals Decisions (BTAs):

BTA Docket No. 10503: Application of use tax to vehicles used as demonstrators. Decision issued before 1992 rule revision.

Administrative Decisions (e.g., WTDs):

Det. No. 92-044R, 13 WTD 63 (1993) – Demonstrators and trade-ins: Rule adequately addresses issues.

Det. No. 92-044, 13 WTD 51 (1993) – Demonstrators held for resale: WAC 458-20-132 does not apply as taxpayer was a developer and manufacturer of electronic equipment.

Det. No. 91-107, 11 WTD 155 (1991) – Executive and demonstrator vehicles: Subject matter addressed in rule. Determination issued before 1992 rule revision.

Det. No. 89-421, 8 WTD 161 (1989) – Loaner cars: Subject matter addressed in rule. Determination issued before 1992 rule revision.

Det. No 86-251, 1 WTD 167 (1986) - Use tax, intervening use: Taxpayers owner of yacht held for resale while intervening use occurred. Application of rule limited to automobile dealers..

Attorney General's Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

Auto Dealer's Manual: Taxpayer Services published the Auto Dealers Manual during 1993, after revisions were made to WAC 458-20-132. Those sections pertaining to demonstrator, executive, and services vehicles are consistent with the rule. As requested by the industry, Taxpayer Services is currently revising the Auto Dealer's Manual. However, changes concerning the application of use tax to demonstrator, executive, and service vehicles are insignificant.



10. Review Recommendation:

_____ Amend

_____ Repeal

_____ **X** Leave as is

_____ Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.)

_____ Incorporate ancillary document into a new or existing rule. (Subject of this review must be an ancillary document and not a rule.)

Explanation of recommendation: (If recommending an amendment of an existing rule, provide only a brief summary of the changes you've identified/recommended earlier in this review document.)

This rule provides a necessary explanation of the application of use tax to demonstrator, executive, and service vehicles. At this time, there is no need to revise the rule. At such time as revisions to the rule become necessary, consideration should be given to including an explanation that use tax does not apply when motorcycles are used for display purposes in a manner consistent with that of automobiles.

11. Manager action: Date: _____

_____ Reviewed recommendation

_____ Accepted recommendation

_____ Returned for further action

Comments: